

ASSEMBLY BILL

No. 424

Introduced by Assembly Member Eng

February 14, 2011

An act to amend Sections 21200, 21200.5, 21201, and 21201.4 of, and to add Section 21003 to, the Financial Code, relating to pawnbrokers.

LEGISLATIVE COUNSEL'S DIGEST

AB 424, as introduced, Eng. Pawnbrokers.

Existing law regulates the sale and redemption of pledged property by pawnbrokers. Existing law authorizes a pawnbroker to charge or receive compensation at a rate not exceeding specified amounts based upon the unpaid principal balance of the loan, but at least \$3 per month. Existing law also sets forth a schedule of charges applicable to these loans and authorizes a pawnbroker to impose a charge of \$1 on any loan for not more than 30 days which does not exceed \$14.99. Existing law requires loans made by pawnbrokers to be evidenced by a written contract. Existing law requires a loan to which an original loan debt is applied to be processed as a new loan. A knowing violation of the provisions regulating pawnbrokers is a crime.

This bill would define the term “month” for purposes of these provisions to mean a period of time consisting of 30 consecutive calendar days and would make various conforming changes. The bill would specify that a pawnbroker may charge or receive compensation in an amount of \$3 per month when the sum of specified other charges or compensation based upon the unpaid principal balance of a loan would be less. The bill would authorize a pawnbroker to impose a charge of \$1 on any loan for not more than 3 months which does not exceed

\$14.99. The bill would make other clarifying changes to these provisions.

Because a knowing violation of these provisions by a pawnbroker would be a crime, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 21003 is added to the Financial Code, to
2 read:
 - 3 21003. For purposes of this division, the term “month” means
4 a period of time consisting of 30 consecutive calendar days.
- 5 SEC. 2. Section 21200 of the Financial Code is amended to
6 read:
 - 7 21200. (a) Except as otherwise provided in this chapter, no
8 pawnbroker shall charge or receive compensation at a rate
9 exceeding the sum of the following:
 - 10 (1) Two and one-half percent per month on that portion of the
11 unpaid principal balance of any loan up to, including, but not in
12 excess of two hundred twenty-five dollars (\$225).
 - 13 (2) Two percent per month on that portion of the unpaid
14 principal balance of the loan in excess of two hundred twenty-five
15 dollars (\$225) up to, including, but not exceeding nine hundred
16 dollars (\$900).
 - 17 (3) One and one-half percent per month on that part of the
18 unpaid principal balance in excess of nine hundred dollars (\$900)
19 up to and including, but not in excess of, one thousand six hundred
20 fifty dollars (\$1,650).
 - 21 (4) One percent per month on any remainder of the unpaid
22 principal balance in excess of one thousand six hundred fifty dollars
23 (\$1,650).
 - 24 ~~(5)~~

1 (b) A charge not exceeding three dollars (\$3) a month ~~on any~~
2 ~~loan when the monthly charge permitted by this section would~~
3 ~~otherwise be less than that minimum charge may be charged by a~~
4 ~~pawnbroker in any month where the sum of the rates set forth in~~
5 ~~subdivision (a) would otherwise be less.~~

6 ~~(b)~~

7 (c) One month's interest may be charged for any part of the
8 month in which pawned property is redeemed.

9 SEC. 3. Section 21200.5 of the Financial Code is amended to
10 read:

11 21200.5. A pawnbroker may charge as prescribed in the
12 following schedule:

13 Schedule of Charges

14 (a) A charge not exceeding one dollar (\$1) *per month for the*
15 *first three months* may be made on any loan ~~for not more than 30~~
16 ~~days~~ which does not exceed fourteen dollars and ninety-nine cents
17 (\$14.99).

18 (b) A charge not exceeding three dollars (\$3) may be made on
19 any loan for not more than ~~90 days~~ *three months* of fifteen dollars
20 (\$15) or more, but not exceeding nineteen dollars and ninety-nine
21 cents (\$19.99).

22 (c) A charge not exceeding four dollars (\$4) may be made on
23 any loan for not more than ~~90 days~~ *three months* of twenty dollars
24 (\$20) or more, but not exceeding twenty-four dollars and
25 ninety-nine cents (\$24.99).

26 (d) A charge not exceeding five dollars (\$5) may be made on
27 any loan for not more than ~~90 days~~ *three months* of twenty-five
28 dollars (\$25) or more, but not exceeding thirty-nine dollars and
29 ninety-nine cents (\$39.99).

30 (e) A charge not exceeding six dollars (\$6) may be made on
31 any loan for not more than ~~90 days~~ *three months* of forty dollars
32 (\$40) or more, but not exceeding forty-nine dollars and ninety-nine
33 cents (\$49.99).

34 (f) A charge not exceeding seven dollars and fifty cents (\$7.50)
35 may be made on any loan for not more than ~~90 days~~ *three months*
36 on any loan of fifty dollars (\$50) or more, but not exceeding
37 sixty-four dollars and ninety-nine cents (\$64.99).

38 (g) A charge not exceeding eight dollars and fifty cents (\$8.50)
39 may be made on any loan for not more than ~~90 days~~ *three months*

1 of sixty-five dollars (\$65) or more, but not exceeding seventy-four
2 dollars and ninety-nine cents (\$74.99).

3 (h) A charge not exceeding ten dollars (\$10) may be made on
4 any loan for not more than ~~90 days~~ *three months* of seventy-five
5 dollars (\$75) or more, but not exceeding ninety-nine dollars and
6 ninety-nine cents (\$99.99).

7 (i) A charge not exceeding twelve dollars and fifty cents
8 (\$12.50) may be made on any loan for not more than ~~90 days~~ *three*
9 *months* of one hundred dollars (\$100) or more, but not exceeding
10 one hundred twenty-four dollars and ninety-nine cents (\$124.99).

11 (j) A charge not exceeding thirteen dollars and fifty cents
12 (\$13.50) may be made on any loan for not more than ~~90 days~~ *three*
13 *months* of one hundred twenty-five dollars (\$125) or more, but not
14 exceeding one hundred forty-nine dollars and ninety-nine cents
15 (\$149.99).

16 (k) A charge not exceeding fifteen dollars (\$15) may be made
17 on any loan for not more than ~~90 days~~ *three months* of one hundred
18 fifty dollars (\$150) or more, but not exceeding two hundred
19 twenty-four dollars and ninety-nine cents (\$224.99).

20 (l) A charge not exceeding twenty dollars (\$20) may be made
21 on any loan for not more than ~~90 days~~ *three months* of two hundred
22 twenty-five dollars (\$225) or more, but not exceeding three hundred
23 twenty-four dollars and ninety-nine cents (\$324.99).

24 (m) A charge not exceeding twenty-five dollars (\$25) may be
25 made on any loan for not more than ~~90 days~~ *three months* of three
26 hundred twenty-five dollars (\$325) or more, but not exceeding
27 four hundred forty-nine dollars and ninety-nine cents (\$449.99).

28 (n) A charge not exceeding thirty-five dollars (\$35) may be
29 made on any loan for not more than ~~90 days~~ *three months* of four
30 hundred fifty dollars (\$450) or more, but not exceeding five
31 hundred ninety-nine dollars and ninety-nine cents (\$599.99).

32 (o) A charge not exceeding forty-five dollars (\$45) may be made
33 on any loan for not more than ~~90 days~~ *three months* of six hundred
34 dollars (\$600) or more, but not exceeding seven hundred
35 ninety-nine dollars and ninety-nine cents (\$799.99).

36 (p) A charge not exceeding fifty-five dollars (\$55) may be made
37 on any loan for not more than ~~90 days~~ *three months* of eight
38 hundred dollars (\$800) or more, but not exceeding nine hundred
39 ninety-nine dollars and ninety-nine cents (\$999.99).

1 (q) A charge not exceeding seventy dollars (\$70) may be made
2 in any loan for not more than ~~90 days~~ *three months* of one thousand
3 dollars (\$1,000) or more, but not exceeding eleven hundred
4 ninety-nine dollars and ninety-nine cents (\$1,199.99).

5 (r) A charge not exceeding eighty-five dollars (\$85) may be
6 made on any loan for not more than ~~90 days~~ *three months* of twelve
7 hundred dollars (\$1,200) or more, but not exceeding fourteen
8 hundred ninety-nine dollars and ninety-nine cents (\$1,499.99).

9 (s) A charge not exceeding one hundred dollars (\$100) may be
10 made on any loan for not more than ~~90 days~~ *three months* of fifteen
11 hundred dollars (\$1,500) or more, but not exceeding seventeen
12 hundred ninety-nine dollars and ninety-nine cents (\$1,799.99).

13 (t) A charge not exceeding one hundred twenty dollars (\$120)
14 may be made on any loan for not more than ~~90 days~~ *three months*
15 of eighteen hundred dollars (\$1,800) or more, but not exceeding
16 two thousand ninety-nine dollars and ninety-nine cents (\$2,099.99).

17 (u) A charge not exceeding one hundred forty dollars (\$140)
18 may be made on any loan for not more than ~~90 days~~ *three months*
19 of twenty-one hundred dollars (\$2,100) or more, but not exceeding
20 twenty-four hundred ninety-nine dollars and ninety-nine cents
21 (\$2,499.99).

22 (v) The *monthly* charge for any extension ~~or renewal of a loan~~
23 ~~covered by this section of a written contract required by Section~~
24 *21201 or 21201.5* shall be computed in accordance with the
25 provisions of Section 21200.

26 The schedule of charges prescribed by this section shall be posted
27 in a place clearly visible to the general public.

28 SEC. 4. Section 21201 of the Financial Code is amended to
29 read:

30 21201. Every loan made by a pawnbroker for which goods are
31 received in pledge as security shall be evidenced by a written
32 contract, a copy of which shall be furnished to the borrower. The
33 loan contract shall provide a four-month loan period, shall set forth
34 the loan period and the date on which the loan is due and payable,
35 and shall clearly inform the borrower of his or her right to redeem
36 the pledge during the loan period.

37 Every loan contract shall contain the following notice, in at least
38 8-point boldface type and circumscribed by a box, immediately
39 above the space for the borrower's signature:

1 “You may redeem the property you have pledged at any time
2 until the close of business on ____ [fill in date four months from
3 date loan begins]. To redeem, you must pay the amount of the loan
4 and the applicable charges which have accrued through the date
5 on which you redeem.”

6 Every pawnbroker shall retain in his or her possession every
7 article pledged to him or her for a period of four months. During
8 such period the borrower may redeem the articles upon payment
9 of the amount of the loan and the applicable charges. If the
10 borrower and the pawnbroker agree in writing that the pawned
11 property may be stored off premises, following the request for
12 redemption of the loan, the pawnbroker shall return the pledged
13 property to the consumer the next calendar day when both the
14 pawnbroker’s store and the storage facility are open, not to exceed
15 two business days.

16 If any pledged article is not redeemed during the four-month
17 loan period as provided herein, and the borrower and pawnbroker
18 do not mutually agree in writing to extend the loan period, the
19 pawnbroker shall notify the borrower within ~~30 days~~ *one month*
20 after expiration of the loan period. If the pawnbroker fails to notify
21 the borrower within ~~30 days~~ *one month* after the expiration of the
22 loan period, the pawnbroker shall not charge interest from the day
23 after the expiration of the ~~30-day~~ *one month* period. The
24 pawnbroker shall notify the borrower at his or her last known
25 address of the termination of the loan period, by a means for which
26 verification of mailing or delivery of the notification can be
27 provided by the pawnbroker, and extending the right of redemption,
28 during posted business hours, for a period of 10 days from date of
29 mailing of that notice. The 10-day notice shall include a statement
30 that: “If the tenth day falls on a day when the pawnshop is closed,
31 the time period is extended to the next day that the pawnshop is
32 open.”

33 However, the posted schedule of charges required pursuant to
34 Section 21200.5 shall contain a notice informing the borrower that
35 if he or she desires, the pawnbroker shall send the notice of
36 termination of the loan period by registered or certified mail with
37 return receipt requested, upon prepayment of the mailing costs. If
38 any pledged article is not redeemed within the 10-day notice period,
39 the pawnbroker shall become vested with all right, title, and interest
40 of the pledgor, or his or her assigns, to the pledged article, to hold

1 and dispose of as his or her own property. Any other provision of
2 law relating to the foreclosure and sale of pledges shall not be
3 applicable to any pledge the title to which is transferred in
4 accordance with this section. The pawnbroker shall not sell any
5 article of pledged property until he or she has become vested with
6 the title to that property pursuant to this section. The sale of
7 pledged property is a misdemeanor pursuant to Section 21209.

8 SEC. 5. Section 21201.4 of the Financial Code is amended to
9 read:

10 21201.4. Charges for the first ~~90 days~~ *three months* of any loan
11 made pursuant to the written contract required by Section 21201
12 *or 21201.5* shall be determined by the application of the schedule
13 of charges contained in Section 21200.5. Charges for any ~~period~~
14 *extension* of time following the first ~~90 days~~ *three months* of ~~the~~
15 *any* loan shall be determined by application of the schedule of
16 maximum compensation contained in Section 21200.

17 SEC. 6. No reimbursement is required by this act pursuant to
18 Section 6 of Article XIII B of the California Constitution because
19 the only costs that may be incurred by a local agency or school
20 district will be incurred because this act creates a new crime or
21 infraction, eliminates a crime or infraction, or changes the penalty
22 for a crime or infraction, within the meaning of Section 17556 of
23 the Government Code, or changes the definition of a crime within
24 the meaning of Section 6 of Article XIII B of the California
25 Constitution.